

AMENDMENT UNDER 37 C.F.R. § 1.111  
Application No.: 10/581,397

Attorney Docket No.: Q95210

**AMENDMENTS TO THE DRAWINGS**

*Please replace the present FIGS. 6 and 7 with amended FIGS. 6 and 7.*

Attachment: Replacement Sheets (2)

**REMARKS**

In this Amendment, Applicant amends claims 1-9, 11-19 and 21-29 and cancels claims 10, 20 and 30. Accordingly, claims 1-9, 11-19 and 21-29 are all the claims pending in the application.

***Claim to foreign priority***

The Examiner acknowledges Applicant's claim to foreign priority, but states that a certified copy of the priority document has not been filed.

Applicant notes that the instant application is national stage of a PCT application and further notes that the Notice of Acceptance of Application under 35 U.S.C. § 371 and 37 C.F.R. § 1.495 mailed by the USPTO on August 14, 2008 indicates that the priority document filed on June 2, 2006 was received at the USPTO. Accordingly, Applicant respectfully requests the Examiner to mark the appropriate box in the next Office Action.

***Objection to the drawings***

The Examiner states that figures 6-7 should be designated by legend such as "Prior Art". In view of the replacement drawings submitted herewith, Applicant respectfully requests the Examiner to withdraw the objection to the drawings.

***Claim rejection under 35 U.S.C. § 101***

Claims 11-30 are rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

In view of the claim amendments submitted with this Amendment, Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 101 rejection of the claims 11-19 and 21-29. Moreover, the rejection of cancelled claims 20 and 30 are moot.

***Claim rejection under 35 U.S.C. § 112, second paragraph***

Claims 1-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

In view of the claim amendments submitted with this Amendment, Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 112, second paragraph rejection of the claims 1-9, 11-19 and 21-29. Moreover, the rejection of cancelled claims 10, 20 and 30 are moot.

***Claim rejection under 35 U.S.C. § 102***

Claims 1-30 are rejected under 35 U.S.C. § 102(e) as being anticipated by Aweya et al. (U.S. Patent No. 6,690,645; hereinafter “Aweya”). Applicant traverses the rejection as follows.

**Claim 1**

Claim 1 recites, *inter alia*, “a step of calculating a receivable amount so that the receivable amount comprises smaller than empty data amount being calculated from the data amount.” Applicant respectfully submit that Aweya does not teach or suggest this feature of claim 1 for at least the following reasons.

Aweya is directed to congestion control in a network based on desired queue occupancy. Aweya discloses generating a probability value in response to queue occupancy and desired queue occupancy and controlling the packet in response to the probability value and a reference value to cause

a source of the packet to change its transmission rate (column 2, lines 36-48). However, Aweya does not teach or suggest “calculating a receivable amount so that the receivable amount comprises smaller than empty data amount being calculated from the data amount.”

In the cited portions of the reference, Aweya discloses that a controller controls admission of the packet into the queue in response to the probability value and the reference value. More particularly, the probability value is compared to the reference value, and if the probability value is greater than or equal to the reference value then the packet is discarded, otherwise the packet is admitted into the queue (column 2, line 65 to column 3, line 10). As such, Aweya merely discloses notifying a drop/mark probability value to the source (data transmission terminal), when the packet stored in the queue (data storing unit) increases greater than the reference value.

Furthermore, when a packet is caused to be dropped by the controller in response to the current drop/mark probability value  $pd(n)$  according to the algorithm depicted in FIG. 5, the drop/mark\_probability signal  $pd$  is, in effect, communicated implicitly back to the packet sources 12 by failure to permit acknowledgement signals to be produced, which causes the sources to adjust their packet transmission rates  $\alpha$ . (column 12, line 57 to column 12, line 64). However, Aweya does not teach or suggest “calculating a receivable amount so that the receivable amount comprises smaller than empty data amount being calculated from the data amount.” That is, Aweya is completely silent about calculating and informing the amount of data which can be received by the relaying apparatus to the data transmission terminal.

Specifically, in Aweya, the data transmission terminal grasps that the packet stored in the data storing unit (Queue) of the relaying apparatus has increased more than reference value. However, this does not teach or suggest the receivable amount of the relaying apparatus.

Furthermore, Aweya is completely silent about “calculating a receivable amount so that the receivable amount comprises smaller than empty data amount being calculated from the data amount.”

According to the above-mentioned features of claim 1, the data transmission terminal can determine the amount of data which it transmits to the relaying apparatus based on the receivable amount of the relaying apparatus. Therefore, in the claimed invention of claim 1, the data transmission terminal can prevent decreasing the amount of data transmission beyond necessity.

In view of the above, Applicant respectfully submits that claim 1 is not anticipated by Aweya.

Claim 2

Claim 2 recites, *inter alia*, “a step of measuring time while a data storing unit is empty; a step of judging whether a transmission amount is reduced or not, based on the time and a network situation relating to throughput for a data transmission, and a step of determining a transmissive amount based on the judgment.” Applicant respectfully submits that Aweya does not teach or suggest these features of claim 2 for at least the following reasons.

Aweya merely discloses that the relaying apparatus calculates a drop/mark probability value, but there is no description about the amount of the packet (data) transmitted from the relaying apparatus. Moreover, the cited portion of the reference (column 5, lines 4-67) also does not teach or suggest the

amount of data which relaying apparatus transmits. For instance, in the cited portion, Aweya discloses a drop/mark probability generator 24 for generating a drop/mark probability value in response to queue occupancy q and the desire occupancy value T. However, there is no teaching or suggestion of measuring time while a data storing unit is empty, judging whether a transmission amount is reduced or not, based on the time and a network situation relating to throughput for a data transmission and determining a transmissive amount based on the judgment."

In view of the above, Applicant respectfully submits that claim 2 is not anticipated by Aweya.

Claim 3

To the extent claim 3 recites features analogous to claims 1 and 2, claim 3 is patentable for at least the same reasons discussed above with regard to claims 1 and 2.

Claims 4-9

Claims 4-9 are the dependent claims of claims 1-3. Therefore, it is believed that claims 4-9 should be allowed at least by virtue of their dependency and the additional features recited therein.

Claims 11-19 and 21-29

Applicant respectfully submit that amended claims 11-19 and 21-29 recite features analogous to claims 1-9, and therefore they are patentable for at least the same reasons discussed above with regard to claims 1-9.

***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Ebenesar D. Thomas/

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SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

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Ebenesar D. Thomas  
Registration No. 62,499

WASHINGTON OFFICE  
**23373**  
CUSTOMER NUMBER

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